

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EV Transportation  
Services, Inc.,

Plaintiff,

Case No. 22-10950

Honorable Jonathan J.C. Grey

v.

Michigan Income and  
Principal-Protected Growth  
Fund, LP, et al.,

Defendants.

\_\_\_\_\_/

**AMENDED ORDER ADOPTING REPORT AND  
RECOMMENDATION (ECF No. 76), GRANTING PLAINTIFF'S  
MOTION TO DISMISS (ECF No. 71), AND DISMISSING ATAC'S  
COUNTERCLAIM WITHOUT PREJUDICE (ECF No. 28)**

Plaintiff EV Transportation Services, Inc. ("EVTS") commenced this matter on May 4, 2022, against Defendants Michigan Income and Principal-Protected Growth Fund, LP ("MIPP") and Advanced Technology Automotive Company, LLC ("ATAC"). (ECF No. 1.) On December 13, 2023, all pre-trial matters in this case were referred to Magistrate Judge Curtis Ivy, Jr. (ECF No. 57.) ATAC filed an answer to the complaint with affirmative defenses and a counterclaim against EVTS on November 4, 2022. (ECF Nos. 27, 28). ATAC filed a third-

party complaint on the same day. (ECF No. 29.) EVTS filed a partial motion to dismiss ATAC's counterclaim, which was granted on February 15, 2023. (ECF Nos. 18, 44)

This matter comes before the Court on Judge Ivy's Report and Recommendation ("R&R") dated September 26, 2024. (ECF No. 76.) In the R&R, Judge Ivy recommends that the Court grant EVTS's motion to dismiss ATAC's counterclaims. (*Id.*) No party has filed an objection to the R&R.

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Finding no error in the Magistrate Judge's R&R, the Court adopts the R&R in its entirety. Furthermore, as neither party has raised an objection to the R&R, the Court finds that the parties have waived any further objections to the R&R. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (a party's failure to file any objections waives his or her right to further appeal); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

For the reasons stated above, **IT IS ORDERED** that the R&R dated September 26, 2024 (ECF No. 76) is **ADOPTED** as this Court's findings of fact and conclusions of law.

**IT IS FURTHER ORDERED** that EVTS's motion to dismiss ATAC's counterclaim (ECF No. 71) is **GRANTED**.

**IT IS FURTHER ORDERED** that ATAC's counterclaim (ECF No. 28) is **DISMISSED WITHOUT PREJUDICE**.

**SO ORDERED.**

Dated: November 14, 2024

**s/Jonathan J.C. Grey**

Jonathan J.C. Grey

United States District Judge

### **Certificate of Service**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First-Class U.S. mail addresses disclosed on the Notice of Electronic Filing on November 14, 2024.

s/ S. Osorio  
Sandra Osorio  
Case Manager